

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-52898
Issue No.: 1002
Case No.: [REDACTED]
Hearing Date: July 17, 2013
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's June 1, 2013, Family Independence Program (FIP) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FIP benefits with a FIP group composed of herself and her niece and nephew, over whom she had legal guardianship.
2. Claimant's FIP case was sanctioned for noncompliance with employment-related activities and penalized for closure between June 1, 2013, and August 31, 2013.
3. On June 1, 2013, Claimant applied for FIP benefits for her niece and nephew with herself as an ineligible grantee.

4. On June 6, 2013, the Department denied the application based on Claimant's noncompliance with employment-related activities without good cause and the closure of the FIP case between June 1, 2013, and August 31, 2013.
5. On June 10, 2013, Claimant filed a request for hearing, disputing the Department's denial of her FIP application.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The issue presented at the hearing was whether Claimant could be an ineligible grantee of FIP benefits on behalf of her niece and nephew when she was subject to a FIP employment-related sanction. Claimant has legal custody of her niece and nephew. Initially, she received FIP benefits for a FIP group composed of herself, her niece and her nephew. Claimant was sanctioned for noncompliance with FIP-related employment activities and her FIP case was closed from June 1, 2013, to August 31, 2013. On June 1, 2013, Claimant filed a FIP application seeking cash assistance for only her niece and nephew, with her as the ineligible grantee. On June 6, 2013, the Department sent Claimant a Notice of Case Action informing her that her application was denied because of her FIP sanction. On June 10, 2013, Claimant filed a request for hearing concerning the denial of her FIP application. At the hearing, Claimant expressly identified the denial of the application as the reason for requesting a hearing, not the closure of her FIP case.

Claimant, as the legal guardian for her niece and nephew, is not a mandatory FIP EDG member. BEM 210 (January 2013), pp. 4, 5. Non-parent caregivers who are not eligible for cash assistance or choose not to request cash assistance are classified as ineligible grantees. BEM 210, p. 7; BEM 515 (November 2012), p. 2. Ineligible caretakers are not recipients of FIP, although the caretaker receives FIP benefits for the children as the children's protective payee. BEM 230A (January 2013), p. 14; BAM 420 (May 2013), pp. 1, 5. While a group is ineligible for FIP benefits if a *WEI* (work-eligible individual) in the group is subject to an employment-related noncompliance while a FIP application is pending, an ineligible caretaker is a *non-WEI*. BEM 233A (January 2013), p. 5; BEM 228 (January 2013), p. 3. Furthermore, a FIP three-month, six-month or lifetime penalty is not applied to ineligible caretakers. BEM 233A, p. 7.

Because Claimant applied on June 1, 2013, for FIP benefits for her niece and nephew with herself as an ineligible caretaker, she is not a mandatory member of the children's FIP group and, if the children are eligible to receive FIP benefits, she would receive FIP benefits on their behalf only as their protective payee. Because Claimant applied for FIP benefits as the children's ineligible caretaker, she is a non-WEI, and it follows that any employment-related disqualification Claimant was subject to should not have been considered in processing Claimant's FIP application for benefits for the children. Thus, the Department did not act in accordance with Department policy when it denied Claimant's June 1, 2013, FIP application.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it denied Claimant's June 1, 2013, FIP application.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's June 1, 2013, FIP application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplement to Claimant as protective payee for any FIP benefits the children are eligible to receive from June 1, 2013, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 24, 2013

Date Mailed: July 24, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

